IN THE UTAH COURT OF APPEALS

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State of Utah, in the interest of S.H., a person under eighteen years of age. _____ S.H., Appellant, v. State of Utah, Appellee.	MEMORANDUM DECISION (Not For Official Publication) Case No. 20050447-CA F I L E D (June 22, 2006) 2006 UT App 253

Second District Juvenile, Ogden Department, 144094
The Honorable J. Mark Andrus

Attorneys: Dee W. Smith, Ogden, for Appellant
Mark L. Shurtleff and Joanne C. Slotnik, Salt Lake City, for Appellee

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Before Judges Billings, Davis, and Orme.

ORME, Judge:

We have determined that "[t]he facts and legal arguments are adequately presented in the briefs and record[,] and the decisional process would not be significantly aided by oral argument." Utah R. App. P. 29(a)(3). Moreover, the issues presented are readily resolved under applicable law.[1]

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[1]The State argues that because S.H. did not raise the issue of insufficient evidence below, he failed to preserve his claim of error. Although we do require an appellant to raise such an issue below when appealing a jury verdict, see State v. Holgate, 2000 UT 74,¶16, 10 P.3d 346, the same is not required in a juvenile case where the judge, and not a jury, makes the adjudication. See Utah R. Juv. P. 48(a) (adopting rule 52 of the Utah Rules of Civil Procedure); Utah R. Civ. P. 52(b) ("When findings of fact are made in actions tried by the court without a (continued...)

> When reviewing a juvenile court's decision for sufficiency of the evidence, we must consider all the facts, and all reasonable inferences which may be drawn therefrom, in a light most favorable to the juvenile court's determination, reversing only when it is "against the clear weight of the evidence, or if the appellate court otherwise reaches a definite and firm conviction that a mistake has been made."

In re V.T., 2000 UT App 189,¶8, 5 P.3d 1234 (quoting State v. Walker, 743 P.2d 191, 193 (Utah 1987)) (internal citation omitted). After considering the facts of the instant case, we cannot say that the juvenile court's determination was against the clear weight of the evidence.

The informant testified that the drug sale in this case would not have occurred but for S.H.'s actions. S.H. first told the informant that he knew who could supply the desired drug. S.H. later revealed to the informant that the dealer was in class with them, and then--although refusing to verbally tell the informant the dealer's name--S.H. immediately walked over to the dealer and began conversing with him. The juvenile court could reasonably infer from this evidence that S.H. was arranging the drug sale through his actions, even if there was no verbalization to this effect. See State v. Pelton, 801 P.2d 184, 185 (Utah Ct. App. 1990) ("'[A]ny witting or intentional lending of aid in the distribution of drugs, in whatever form the aid takes, is proscribed by the act.'") (quoting State v. Gray, 717 P.2d 1313, 1320 (Utah 1986), cert. denied, 156 Utah Adv. Rep. 26 (Utah 1991)).

S.H. asserts that he was not closely connected to the sale, but his actions nevertheless meet the statutory prohibition even if he was never in possession of drugs, was largely silent during the conversation between the dealer and the informant, and was

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[1](...continued)
jury, the question of the sufficiency of the evidence to support the findings may thereafter be raised whether or not the party raising the question has made in the district court an objection to such findings or has made either a motion to amend them, a motion for judgment, or a motion for a new trial."). Cf. State v. Larsen, 2000 UT App 106,¶9 n.4, 999 P.2d 1252 (applying rule 52(b) of the Utah Rules of Civil Procedure to a criminal bench trial). Thus, S.H. was not required to raise his sufficiency argument below, and we may properly address the merits of the issue on appeal.

not present during the actual distribution. See id. He was still "one link in a chain of events . . . which eventually led to the sale of [drugs]." Id.

And regarding the mens rea element, the informant testified that during the discussion between the informant and the dealer, S.H. requested an OxyContin pill as a "finder's fee." From this evidence alone the juvenile court could reasonably conclude "that [S.H.] knew that he would be the triggering mechanism to bringing [the informant] and [the dealer] together, . . . and that [S.H.] also knew the transaction involved the sale of [drugs]." Id. at 185-86.

Thus, the juvenile court's determination was not against the clear weight of the evidence. The court could reasonably infer from the evidence presented that the elements of the crime--that S.H. knowingly and intentionally arranged the distribution of a controlled substance--were met beyond a reasonable doubt.

Affirmed.

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Gregory K. Orme, Judge

WE CONCUR:

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Judith M. Billings, Judge

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James Z. Davis, Judge